

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LELAND L. HENDERSON,

Defendant.

)
)
)
)
)
)
)
)
)

Case No. 8:06CR283

ORDER

THIS MATTER is before the Court on defendant Leland L. Henderson's, Motion for Examination and Determination of Mental Competency pursuant to 18 U.S.C. § 4241 (#49). The motion was set for hearing on August 14, 2007. Defendant's attorney, David L. Nich, Jr. and Assistant United States Attorney John E. Higgins appeared. The defendant did not appear as he is currently held in custody by the State of Nebraska as a result of a commitment from the Adams County Mental Health Board.

Defendant's attorney, by way of proffer, set out for the Court his concerns relating to the cognitive abilities and mental capacities of the defendant. The Government stated on the record that, while not confessing the motion, they believed it would be better to address competency at this stage of the case rather than later. The court received defendant's Exhibit 101, and no other evidence was offered by either side.

I find by a preponderance of the evidence that the defendant may be presently suffering from mental disease or defect which could render him mentally incompetent to understand the nature and consequences of the proceedings against him, or to assist his attorney in his defense, pursuant to 18 U.S.C. § 4241. The request for a psychiatric evaluation is granted.

IT IS THEREFORE ORDERED:

1. The defendant Leland L. Henderson's Motion for Examination and Determination of Mental Competency (#49) is granted.

2. Pursuant to 18 U.S.C. § 4241, defendant is committed to the custody of the Attorney General for placement in a suitable facility to be examined for a reasonable period of time, not to exceed thirty (30) days, to determine whether defendant is suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

3. A psychiatric or psychological report shall be filed with the Court with copies provided to counsel of record at the completion of the period of examination.

4. Upon receipt by the Court and counsel of the examination report, a hearing pursuant to 18 U.S.C. § 4247(d) shall be promptly scheduled to determine the competency of defendant to stand trial in this matter.

Dated this 15th day of August 2007.

BY THE COURT:

s/ F. A. Gossett
United States Magistrate Judge